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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,722

10/30/2003

Patrick R. Lancaster III

02906.0346

6330

22852

7590

05/18/2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
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EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/696,722	<b>Applicant(s)</b> LANCASTER ET AL.	
	<b>Examiner</b> John R. Paradiso	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38,40-47,58,59,76-82,84,86-89 and 133-136 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38,40-47,58,59,76-82,84,86-89 and 133-136 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections*

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-38, 40-47, 58, 59, 76-82, 84, 86-89, and 133-136 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JAMES ET AL in view of BELL (US 4049130).

JAMES ET AL discloses a method and apparatus for dispensing pallets in which pallets are stored in a magazine (P) and lifted up from a bottommost pallet, the bottommost pallet being supported by a plate. The bottommost pallet is moved from under the magazine by pusher lugs through the gap created (121) and conveyed on rollers (19). (See JAMES ET AL column 3:62-4:38 and Fig. 1-2). The pusher lugs are mounted on a conveyor which is moved by a motor.

Examiner notes that a cantilever can be considered as a large bracket, held rigidly at one end. The claimed "cantilevered pusher bar" is being read on the pusher lugs of JAMES ET AL, since they are held rigidly on the end secured to the conveyor and extend outward to engage the pallet.

JAMES ET AL does not specifically disclose means for adjusting the size of an interior of the pallet magazine, nor does it disclose the pusher being spaced above the platform surface.

BELL discloses a method and apparatus for dispensing flat objects (PB) from the bottom of a stack (S). The stack rests on a work surface (16) and the lowermost objects are pushed by a

Art Unit: 3721

pusher (22) that is in turn moved by a pneumatic arm (26). The pusher (22) is spaced above the work surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of JAMES ET AL by adding the pusher of BELL in order to achieve the greater pushing force made possible by a pneumatic pusher.

Regarding claim 4, 24-26, 54-56, Fig. 2 of JAMES ET AL shows that the pusher lugs move from horizontal to vertical and back repeatedly.

Regarding claim 5, the pusher lugs of JAMES ET AL move from the rear of the pallet to the front and therefore from the rear gap created by the raising of the other pallets to the front gap, which was created the same way.

Regarding claim 18 and 31, sensors (not shown) provide input to a programmable logic controller (25) to sense jams and stop the machine as appropriate if a jam occurs (see column 14:14-38).

Regarding claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pallet magazine size of JAMES ET AL adjustable by adding a means to adjust the size of an interior of the pallet magazine in order to accommodate different commercial sizes of pallets, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

Art Unit: 3721

Regarding claims 79 and 136, in the previous Office Action, Applicant was given Official Notice that the use of vibratory motion to reduce the incidence of snags between parts that move in proximity to one another is quite well known in the packaging art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide for a vibratory motion to the pallets to reduce the incidence of snags as one of the pallets is pulled from the stack. Since Applicant does not disagree with this point, it will hereafter be referred to as admitted prior art.

Regarding claims 80 and 133, it would have been obvious to one of ordinary skill in the art at the time the invention was made to load the pallets and wrap the load as claimed, holding loads is the primary function of pallets and wrapping loads is well known in the art.

### ***Response to Arguments***

3. Applicant's arguments filed 2/17/2006 have been fully considered but they are not persuasive.
4. Applicant states on page 17 of his Response that "claim 1 has been amended to recite .. ' the pusher bar having a pallet contacting portion that is vertically spaced away from the platform .. ' .. This limitation is neither disclosed or suggested by James."

However, this argument is rendered moot in view of the new grounds of rejection above.

Art Unit: 3721

5. Applicant states on page 18 of his Response that “claims 80 and 133 each recite, .. ‘building a load on the dispensed pallet; providing relative rotation between a packaging material dispenser and the load to wrap packaging material around the load.’”

However, this was implied in JAMES ET AL and is more specifically addressed in the rejection above: it would have been obvious to one of ordinary skill in the art at the time the invention was made to load the pallets and wrap the load as claimed, holding loads is the primary function of pallets and wrapping loads is well known in the art.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

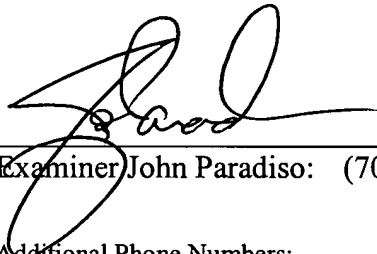
Art Unit: 3721

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

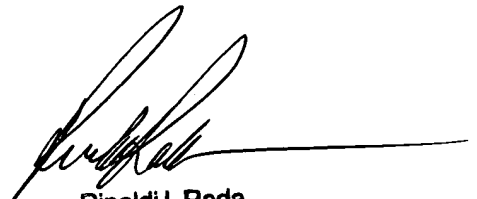
Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825

Additional Phone Numbers:

Supervisor Rinaldi Rada: (703) 308-2187  
Fax (directly to Examiner) (703) 746-3253  
Fax (Official): (571) 273-8300



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700

May 11, 2006